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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.2237 OF 2007
IN
INCOME TAX APPEAL LODGING NO.1139 OF 2007

The Commissioner of Income Tax..Appellant

Vs.

M/s.Efficient Builders ..Respondents

Mr.B.M. Chatterjee with Ms. P.P.Bhosale i/b. P.S. Sahadevan, for the Appellant.
Mr. Deepak Tavalshawala with Ms. Madhavi Tavanandi, for the Respondents.

CORAM: F.I. REBELLO &
A.A.SAYED,JJ.
DATED: 23RD JULY,2007

P.C.:

. Heard learned Counsel for the parties. There is a delay of 242 days in preferring the Appeal. Shri C. James George has filed an affidavit in support of the Motion setting out the cause for the delay.

2. On behalf of the Respondents learned Counsel contends that the cause shown in the affidavit would not amount to sufficient cause as the explanation given for the delay are general.

3. As now observed and held by the Supreme Court what has to be considered is justice of the matter. It is not that day-to-day delay should be

explained. In our opinion what is set out in para.2 of the affidavit though there is no explanation of day-to-day delay, it would amount to sufficient cause. At the highest the petitioner can be saddled with costs. In the light of that delay condoned. Motion made absolute in terms of prayer clause (a) subject to the appellant paying to the respondents costs quantified at Rs.2,500/- Costs to be paid within four weeks. On payment of such costs Appeal to be registered. On failure to pay costs Appeal to stand dismissed without reference to the Court.

(A.A. SAYED, J.) **(F.I.REBELLO, J.)**